

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 685

Introduced by Bolz, 29.

Read first time January 06, 2016

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2717 and 77-2734.03, Revised Statutes Cumulative Supplement,
- 3 2014, and section 77-2715.07, Revised Statutes Supplement, 2015; to
- 4 adopt the Student Loan Repayment Tax Credit Act; to harmonize
- 5 provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 5 of this act shall be known and may be
2 cited as the Student Loan Repayment Tax Credit Act.

3 Sec. 2. For purposes of the Student Loan Repayment Tax Credit Act:

4 (1) Department means the Department of Revenue;

5 (2) Employer means any individual, partnership, limited liability
6 partnership, limited liability company, association, corporation,
7 business trust, legal representative, or other business entity that (a)
8 employs one or more qualified employees in this state, (b) is subject to
9 income tax under the Nebraska Revenue Act of 1967, and (c) is physically
10 located in this state;

11 (3) Postsecondary educational institution means a two-year or four-
12 year college or university which is a member institution of an
13 accrediting body recognized by the United States Department of Education;

14 (4) Qualified employee means an individual who:

15 (a) Is employed by the employer for at least four hundred eighty
16 hours in this state during the taxable year;

17 (b)(i) Graduated from a postsecondary educational institution
18 located in this state; or

19 (ii) Graduated from a postsecondary educational institution located
20 in another state after graduating from a high school located in this
21 state; and

22 (c) Incurred a student loan while attending the postsecondary
23 educational institution.

24 (5) Student loan means a student educational loan for higher
25 education expenses that is authorized by Title 20 of the United States
26 Code.

27 Sec. 3. (1) Any employer that repays student loan principal and
28 interest directly to the relevant lender or servicer of the loan on
29 behalf of a qualified employee of such employer may apply to the
30 department to receive a tax credit for such student loan repayment. The
31 amount of the credit shall be equal to fifty percent of the employer's

1 student loan repayment, up to a maximum credit of one thousand eight
2 hundred dollars for each qualified employee for whom student loan
3 repayments are made in any taxable year. An employer may earn such
4 credits for up to twenty qualified employees per taxable year.

5 (2) The credit allowed under this section shall be a nonrefundable
6 credit against the income tax imposed by the Nebraska Revenue Act of
7 1967. Such credit shall be available for taxable years beginning or
8 deemed to begin on or after January 1, 2017, under the Internal Revenue
9 Code of 1986, as amended.

10 (3) Beginning January 1, 2017, employers may apply for the credits
11 allowed under this section by submitting an application, on a form
12 prescribed by the department, containing the following information:

13 (a) The name of the employer;

14 (b) The total number of employees;

15 (c) The number of qualified employees for whom student loan
16 repayments will be made in the taxable year for which a credit is sought;

17 (d) The amount of the student loan repayment anticipated to be made
18 for each such qualified employee;

19 (e) The total amount of credits sought under this section for such
20 taxable year; and

21 (f) Any other documentation required by the department.

22 (4) Subject to subsection (5) of this section, if the department
23 determines that the employer qualifies for tax credits under this
24 section, it shall approve the application and certify the amount of
25 credits approved to the employer.

26 (5) The department shall consider applications in the order in which
27 they are received and may approve up to one million five hundred thousand
28 dollars in tax credits under this section in any taxable year. At least
29 twenty-five percent of the credits approved in any taxable year must go
30 to employers with no more than fifty employees.

31 Sec. 4. (1) An employer shall claim the tax credit by attaching the

1 tax credit certification received from the department under section 3 of
2 this act to the employer's income tax return for the taxable year.

3 (2) Any unused credits may be carried forward to subsequent tax
4 years until fully utilized.

5 (3) If the department determines that the employer failed to make
6 the student loan repayments for which tax credits were certified under
7 section 3 of this act, the department shall recapture all or a portion of
8 such credits. Such recapture shall be allowed for a period of three years
9 after the end of the taxable year for which the credits were claimed.

10 Sec. 5. The department may adopt and promulgate rules and
11 regulations to carry out the Student Loan Repayment Tax Credit Act.

12 Sec. 6. Section 77-2715.07, Revised Statutes Supplement, 2015, is
13 amended to read:

14 77-2715.07 (1) There shall be allowed to qualified resident
15 individuals as a nonrefundable credit against the income tax imposed by
16 the Nebraska Revenue Act of 1967:

17 (a) A credit equal to the federal credit allowed under section 22 of
18 the Internal Revenue Code; and

19 (b) A credit for taxes paid to another state as provided in section
20 77-2730.

21 (2) There shall be allowed to qualified resident individuals against
22 the income tax imposed by the Nebraska Revenue Act of 1967:

23 (a) For returns filed reporting federal adjusted gross incomes of
24 greater than twenty-nine thousand dollars, a nonrefundable credit equal
25 to twenty-five percent of the federal credit allowed under section 21 of
26 the Internal Revenue Code of 1986, as amended, except that for taxable
27 years beginning or deemed to begin on or after January 1, 2015, such
28 nonrefundable credit shall be allowed only if the individual would have
29 received the federal credit allowed under section 21 of the code after
30 adding back in any carryforward of a net operating loss that was deducted
31 pursuant to such section in determining eligibility for the federal

1 credit;

2 (b) For returns filed reporting federal adjusted gross income of
3 twenty-nine thousand dollars or less, a refundable credit equal to a
4 percentage of the federal credit allowable under section 21 of the
5 Internal Revenue Code of 1986, as amended, whether or not the federal
6 credit was limited by the federal tax liability. The percentage of the
7 federal credit shall be one hundred percent for incomes not greater than
8 twenty-two thousand dollars, and the percentage shall be reduced by ten
9 percent for each one thousand dollars, or fraction thereof, by which the
10 reported federal adjusted gross income exceeds twenty-two thousand
11 dollars, except that for taxable years beginning or deemed to begin on or
12 after January 1, 2015, such refundable credit shall be allowed only if
13 the individual would have received the federal credit allowed under
14 section 21 of the code after adding back in any carryforward of a net
15 operating loss that was deducted pursuant to such section in determining
16 eligibility for the federal credit;

17 (c) A refundable credit as provided in section 77-5209.01 for
18 individuals who qualify for an income tax credit as a qualified beginning
19 farmer or livestock producer under the Beginning Farmer Tax Credit Act
20 for all taxable years beginning or deemed to begin on or after January 1,
21 2006, under the Internal Revenue Code of 1986, as amended;

22 (d) A refundable credit for individuals who qualify for an income
23 tax credit under the Angel Investment Tax Credit Act, the Nebraska
24 Advantage Microenterprise Tax Credit Act, or the Nebraska Advantage
25 Research and Development Act; and

26 (e) A refundable credit equal to ten percent of the federal credit
27 allowed under section 32 of the Internal Revenue Code of 1986, as
28 amended, except that for taxable years beginning or deemed to begin on or
29 after January 1, 2015, such refundable credit shall be allowed only if
30 the individual would have received the federal credit allowed under
31 section 32 of the code after adding back in any carryforward of a net

1 operating loss that was deducted pursuant to such section in determining
2 eligibility for the federal credit.

3 (3) There shall be allowed to all individuals as a nonrefundable
4 credit against the income tax imposed by the Nebraska Revenue Act of
5 1967:

6 (a) A credit for personal exemptions allowed under section
7 77-2716.01;

8 (b) A credit for contributions to certified community betterment
9 programs as provided in the Community Development Assistance Act. Each
10 partner, each shareholder of an electing subchapter S corporation, each
11 beneficiary of an estate or trust, or each member of a limited liability
12 company shall report his or her share of the credit in the same manner
13 and proportion as he or she reports the partnership, subchapter S
14 corporation, estate, trust, or limited liability company income;

15 (c) A credit for investment in a biodiesel facility as provided in
16 section 77-27,236;

17 (d) A credit as provided in the New Markets Job Growth Investment
18 Act; ~~and~~

19 (e) A credit as provided in the Nebraska Job Creation and Mainstreet
20 Revitalization Act; and -

21 (f) A credit as provided in the Student Loan Repayment Tax Credit
22 Act.

23 (4) There shall be allowed as a credit against the income tax
24 imposed by the Nebraska Revenue Act of 1967:

25 (a) A credit to all resident estates and trusts for taxes paid to
26 another state as provided in section 77-2730;

27 (b) A credit to all estates and trusts for contributions to
28 certified community betterment programs as provided in the Community
29 Development Assistance Act; and

30 (c) A refundable credit for individuals who qualify for an income
31 tax credit as an owner of agricultural assets under the Beginning Farmer

1 Tax Credit Act for all taxable years beginning or deemed to begin on or
2 after January 1, 2009, under the Internal Revenue Code of 1986, as
3 amended. The credit allowed for each partner, shareholder, member, or
4 beneficiary of a partnership, corporation, limited liability company, or
5 estate or trust qualifying for an income tax credit as an owner of
6 agricultural assets under the Beginning Farmer Tax Credit Act shall be
7 equal to the partner's, shareholder's, member's, or beneficiary's portion
8 of the amount of tax credit distributed pursuant to subsection (4) of
9 section 77-5211.

10 (5)(a) For all taxable years beginning on or after January 1, 2007,
11 and before January 1, 2009, under the Internal Revenue Code of 1986, as
12 amended, there shall be allowed to each partner, shareholder, member, or
13 beneficiary of a partnership, subchapter S corporation, limited liability
14 company, or estate or trust a nonrefundable credit against the income tax
15 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the
16 partner's, shareholder's, member's, or beneficiary's portion of the
17 amount of franchise tax paid to the state under sections 77-3801 to
18 77-3807 by a financial institution.

19 (b) For all taxable years beginning on or after January 1, 2009,
20 under the Internal Revenue Code of 1986, as amended, there shall be
21 allowed to each partner, shareholder, member, or beneficiary of a
22 partnership, subchapter S corporation, limited liability company, or
23 estate or trust a nonrefundable credit against the income tax imposed by
24 the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's,
25 member's, or beneficiary's portion of the amount of franchise tax paid to
26 the state under sections 77-3801 to 77-3807 by a financial institution.

27 (c) Each partner, shareholder, member, or beneficiary shall report
28 his or her share of the credit in the same manner and proportion as he or
29 she reports the partnership, subchapter S corporation, limited liability
30 company, or estate or trust income. If any partner, shareholder, member,
31 or beneficiary cannot fully utilize the credit for that year, the credit

1 may not be carried forward or back.

2 Sec. 7. Section 77-2717, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:

4 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
5 before January 1, 2014, the tax imposed on all resident estates and
6 trusts shall be a percentage of the federal taxable income of such
7 estates and trusts as modified in section 77-2716, plus a percentage of
8 the federal alternative minimum tax and the federal tax on premature or
9 lump-sum distributions from qualified retirement plans. The additional
10 taxes shall be recomputed by (A) substituting Nebraska taxable income for
11 federal taxable income, (B) calculating what the federal alternative
12 minimum tax would be on Nebraska taxable income and adjusting such
13 calculations for any items which are reflected differently in the
14 determination of federal taxable income, and (C) applying Nebraska rates
15 to the result. The federal credit for prior year minimum tax, after the
16 recomputations required by the Nebraska Revenue Act of 1967, and the
17 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act
18 and the Nebraska Advantage Research and Development Act shall be allowed
19 as a reduction in the income tax due. A refundable income tax credit
20 shall be allowed for all resident estates and trusts under the Angel
21 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
22 Credit Act, and the Nebraska Advantage Research and Development Act. A
23 nonrefundable income tax credit shall be allowed for all resident estates
24 and trusts as provided in the New Markets Job Growth Investment Act.

25 (ii) For taxable years beginning or deemed to begin on or after
26 January 1, 2014, the tax imposed on all resident estates and trusts shall
27 be a percentage of the federal taxable income of such estates and trusts
28 as modified in section 77-2716, plus a percentage of the federal tax on
29 premature or lump-sum distributions from qualified retirement plans. The
30 additional taxes shall be recomputed by substituting Nebraska taxable
31 income for federal taxable income and applying Nebraska rates to the

1 result. The credits provided in the Nebraska Advantage Microenterprise
2 Tax Credit Act and the Nebraska Advantage Research and Development Act
3 shall be allowed as a reduction in the income tax due. A refundable
4 income tax credit shall be allowed for all resident estates and trusts
5 under the Angel Investment Tax Credit Act, the Nebraska Advantage
6 Microenterprise Tax Credit Act, and the Nebraska Advantage Research and
7 Development Act. A nonrefundable income tax credit shall be allowed for
8 all resident estates and trusts as provided in the Nebraska Job Creation
9 and Mainstreet Revitalization Act, ~~and the New Markets Job Growth~~
10 Investment Act, and the Student Loan Repayment Tax Credit Act.

11 (b) The tax imposed on all nonresident estates and trusts shall be
12 the portion of the tax imposed on resident estates and trusts which is
13 attributable to the income derived from sources within this state. The
14 tax which is attributable to income derived from sources within this
15 state shall be determined by multiplying the liability to this state for
16 a resident estate or trust with the same total income by a fraction, the
17 numerator of which is the nonresident estate's or trust's Nebraska income
18 as determined by sections 77-2724 and 77-2725 and the denominator of
19 which is its total federal income after first adjusting each by the
20 amounts provided in section 77-2716. The federal credit for prior year
21 minimum tax, after the recomputations required by the Nebraska Revenue
22 Act of 1967, reduced by the percentage of the total income which is
23 attributable to income from sources outside this state, and the credits
24 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the
25 Nebraska Advantage Research and Development Act shall be allowed as a
26 reduction in the income tax due. A refundable income tax credit shall be
27 allowed for all nonresident estates and trusts under the Angel Investment
28 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
29 and the Nebraska Advantage Research and Development Act. A nonrefundable
30 income tax credit shall be allowed for all nonresident estates and trusts
31 as provided in the Nebraska Job Creation and Mainstreet Revitalization

1 Act, ~~and~~ the New Markets Job Growth Investment Act, and the Student Loan
2 Repayment Tax Credit Act.

3 (2) In all instances wherein a fiduciary income tax return is
4 required under the provisions of the Internal Revenue Code, a Nebraska
5 fiduciary return shall be filed, except that a fiduciary return shall not
6 be required to be filed regarding a simple trust if all of the trust's
7 beneficiaries are residents of the State of Nebraska, all of the trust's
8 income is derived from sources in this state, and the trust has no
9 federal tax liability. The fiduciary shall be responsible for making the
10 return for the estate or trust for which he or she acts, whether the
11 income be taxable to the estate or trust or to the beneficiaries thereof.
12 The fiduciary shall include in the return a statement of each
13 beneficiary's distributive share of net income when such income is
14 taxable to such beneficiaries.

15 (3) The beneficiaries of such estate or trust who are residents of
16 this state shall include in their income their proportionate share of
17 such estate's or trust's federal income and shall reduce their Nebraska
18 tax liability by their proportionate share of the credits as provided in
19 the Angel Investment Tax Credit Act, the Nebraska Advantage
20 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
21 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
22 Act, ~~and~~ the New Markets Job Growth Investment Act, and the Student Loan
23 Repayment Tax Credit Act. There shall be allowed to a beneficiary a
24 refundable income tax credit under the Beginning Farmer Tax Credit Act
25 for all taxable years beginning or deemed to begin on or after January 1,
26 2001, under the Internal Revenue Code of 1986, as amended.

27 (4) If any beneficiary of such estate or trust is a nonresident
28 during any part of the estate's or trust's taxable year, he or she shall
29 file a Nebraska income tax return which shall include (a) in Nebraska
30 adjusted gross income that portion of the estate's or trust's Nebraska
31 income, as determined under sections 77-2724 and 77-2725, allocable to

1 his or her interest in the estate or trust and (b) a reduction of the
2 Nebraska tax liability by his or her proportionate share of the credits
3 as provided in the Angel Investment Tax Credit Act, the Nebraska
4 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
5 and Development Act, the Nebraska Job Creation and Mainstreet
6 Revitalization Act, ~~and~~ the New Markets Job Growth Investment Act, and
7 the Student Loan Repayment Tax Credit Act and shall execute and forward
8 to the fiduciary, on or before the original due date of the Nebraska
9 fiduciary return, an agreement which states that he or she will file a
10 Nebraska income tax return and pay income tax on all income derived from
11 or connected with sources in this state, and such agreement shall be
12 attached to the Nebraska fiduciary return for such taxable year.

13 (5) In the absence of the nonresident beneficiary's executed
14 agreement being attached to the Nebraska fiduciary return, the estate or
15 trust shall remit a portion of such beneficiary's income which was
16 derived from or attributable to Nebraska sources with its Nebraska return
17 for the taxable year. For taxable years beginning or deemed to begin
18 before January 1, 2013, the amount of remittance, in such instance, shall
19 be the highest individual income tax rate determined under section
20 77-2715.02 multiplied by the nonresident beneficiary's share of the
21 estate or trust income which was derived from or attributable to sources
22 within this state. For taxable years beginning or deemed to begin on or
23 after January 1, 2013, the amount of remittance, in such instance, shall
24 be the highest individual income tax rate determined under section
25 77-2715.03 multiplied by the nonresident beneficiary's share of the
26 estate or trust income which was derived from or attributable to sources
27 within this state. The amount remitted shall be allowed as a credit
28 against the Nebraska income tax liability of the beneficiary.

29 (6) The Tax Commissioner may allow a nonresident beneficiary to not
30 file a Nebraska income tax return if the nonresident beneficiary's only
31 source of Nebraska income was his or her share of the estate's or trust's

1 income which was derived from or attributable to sources within this
2 state, the nonresident did not file an agreement to file a Nebraska
3 income tax return, and the estate or trust has remitted the amount
4 required by subsection (5) of this section on behalf of such nonresident
5 beneficiary. The amount remitted shall be retained in satisfaction of the
6 Nebraska income tax liability of the nonresident beneficiary.

7 (7) For purposes of this section, unless the context otherwise
8 requires, simple trust shall mean any trust instrument which (a) requires
9 that all income shall be distributed currently to the beneficiaries, (b)
10 does not allow amounts to be paid, permanently set aside, or used in the
11 tax year for charitable purposes, and (c) does not distribute amounts
12 allocated in the corpus of the trust. Any trust which does not qualify as
13 a simple trust shall be deemed a complex trust.

14 (8) For purposes of this section, any beneficiary of an estate or
15 trust that is a grantor trust of a nonresident shall be disregarded and
16 this section shall apply as though the nonresident grantor was the
17 beneficiary.

18 Sec. 8. Section 77-2734.03, Revised Statutes Cumulative Supplement,
19 2014, is amended to read:

20 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
21 1997, any (i) insurer paying a tax on premiums and assessments pursuant
22 to section 77-908 or 81-523, (ii) electric cooperative organized under
23 the Joint Public Power Authority Act, or (iii) credit union shall be
24 credited, in the computation of the tax due under the Nebraska Revenue
25 Act of 1967, with the amount paid during the taxable year as taxes on
26 such premiums and assessments and taxes in lieu of intangible tax.

27 (b) For taxable years commencing on or after January 1, 1997, any
28 insurer paying a tax on premiums and assessments pursuant to section
29 77-908 or 81-523, any electric cooperative organized under the Joint
30 Public Power Authority Act, or any credit union shall be credited, in the
31 computation of the tax due under the Nebraska Revenue Act of 1967, with

1 the amount paid during the taxable year as (i) taxes on such premiums and
2 assessments included as Nebraska premiums and assessments under section
3 77-2734.05 and (ii) taxes in lieu of intangible tax.

4 (c) For taxable years commencing or deemed to commence prior to, on,
5 or after January 1, 1998, any insurer paying a tax on premiums and
6 assessments pursuant to section 77-908 or 81-523 shall be credited, in
7 the computation of the tax due under the Nebraska Revenue Act of 1967,
8 with the amount paid during the taxable year as assessments allowed as an
9 offset against premium and related retaliatory tax liability pursuant to
10 section 44-4233.

11 (2) There shall be allowed to corporate taxpayers a tax credit for
12 contributions to community betterment programs as provided in the
13 Community Development Assistance Act.

14 (3) There shall be allowed to corporate taxpayers a refundable
15 income tax credit under the Beginning Farmer Tax Credit Act for all
16 taxable years beginning or deemed to begin on or after January 1, 2001,
17 under the Internal Revenue Code of 1986, as amended.

18 (4) The changes made to this section by Laws 2004, LB 983, apply to
19 motor fuels purchased during any tax year ending or deemed to end on or
20 after January 1, 2005, under the Internal Revenue Code of 1986, as
21 amended.

22 (5) There shall be allowed to corporate taxpayers refundable income
23 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act
24 and the Nebraska Advantage Research and Development Act.

25 (6) There shall be allowed to corporate taxpayers a nonrefundable
26 income tax credit for investment in a biodiesel facility as provided in
27 section 77-27,236.

28 (7) There shall be allowed to corporate taxpayers a nonrefundable
29 income tax credit as provided in the Nebraska Job Creation and Mainstreet
30 Revitalization Act, ~~and~~ the New Markets Job Growth Investment Act, and
31 the Student Loan Repayment Tax Credit Act.

1 Sec. 9. Original sections 77-2717 and 77-2734.03, Revised Statutes
2 Cumulative Supplement, 2014, and section 77-2715.07, Revised Statutes
3 Supplement, 2015, are repealed.